

AO 243  
REV 6/82MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

CV-11-3046-LRS

United States District Court		District EASTERN DISTRICT OF WASHINGTON
Name of Movant MICHAEL ALLEN BRIGGS	Prisoner No.	Docket No. CR-07-2063-LRS-2
Place of Confinement Federal Correctional Institution Sheridan		
(include name upon which convicted)		
UNITED STATES OF AMERICA	V.	MICHAEL ALLEN BRIGGS (full name of movant)

## MOTION

1. Name and location of court which entered the judgment of conviction under attack U.S. District Court  
Western District of Washington

2. Date of judgment of conviction Feb 2009

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

3. Length of sentence 132 Months

APR 15 2011

4. Nature of offense involved (all counts)

21 U.S.C. 846 and 18 U.S.C. 924(o)

JAMES R. LARSEN, CLERK  
DEPUTY  
RICHLAND, WASHINGTON

5. What was your plea? (Check one)

- (a) Not guilty ☒   
 (b) Guilty ☐   
 (c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. Kind of trial: (Check one)

- (a) Jury ☒   
 (b) Judge only ☐

7. Did you testify at the trial?

Yes ☒ No ☐

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

AO 243  
REV 6/82

## 9. If you did appeal, answer the following:

(a) Name of court NINTH CIRCUIT COURT OF APPEALS(b) Result DENIED

(c) Date of result \_\_\_\_\_

## 10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

## 11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

## (b) As to any second petition, application or motion give the same information:

(1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

AO 243  
REV 6/82

(4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

(c) As to any third petition, application or motion, give the same information:

(1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

(4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of Result \_\_\_\_\_

(d) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐

(2) Second petition, etc. Yes ☐ No ☐

(3) Third petition, etc. Yes ☐ No ☐

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

AO 243  
REV 6/82

- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Denial of effective assistance of counsel.

Supporting FACTS (tell your story *briefly* without citing cases or law): Defendant's trial counsel was ineffective for failure to proffer an affirmative defense of entrapment.

B. Ground two: Denial of effective assistance of counsel.

Supporting FACTS (tell your story *briefly* without citing cases or law): Defendant's trial counsel was ineffective for failure to investigate and call witness(es), Glen Ray Briggs, et al.,

C. Ground three: Denial of effective assistance of counsel.

Supporting FACTS (tell your story *briefly* without citing cases or law): (a) Defendant's trial Counsel failed to object to irrelevant and prejudicial testimony of agent Foreman, Steadman and Floyd. (b) Trial counsel failed to object to improper questing by the Government during cross examination of defendant.

AO 243  
REV 6/82

D. Ground four: Conviction obtained by the unconstitutional failure of the Gov't to disclose evidence favorable to the defendant.

Supporting FACTS (tell your story *briefly* without citing cases or law): Prosecutor(s) failed to disclose phone and other records of the agents involved in the case, these records were consealed which resulted in the defendants inability to not only proffer an affirmative defense, more importantly these records would and will bring to light the egregious and outrageous conduct of the Government.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?  
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Federal Public Defender's Office

Yakima, WA

(b) At arraignment and plea Federal Public Defenders Office

(c) At trial Tim Coderral

Yakima, WA

(d) At sentencing Tim Coderral

Yakima, WA

**E. Ground Five:** Denial of effective assistance of Counsel.

**Supporting Facts:**

Defendant's Trial Counsel failed to play tape recordings of defendant and ATF Agent Floyd's conversation concerning a silencer. Agent Floyd, not the defendant brought up and spoke the word "silencer" and had defendant's Attorney play the tape, the Jury could have heard the contradiction in the ATF Agent's Testimony and there would have been a different verdict rendered by the Jury.

AO 243  
REV 6/82

(e) On appeal T. Brian Newman  
Yakima, WA

(f) In any post-conviction proceeding \_\_\_\_\_

(g) On appeal from any adverse ruling in a post-conviction proceeding \_\_\_\_\_

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

2-4-11  
(date)

Michael Briggs  
Signature of Movant